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March 7, 2005

VIA HAND DELIVERY AND E-FILING

The Honorable Gregory M. Sleet
 U.S. District Court
 844 North King Street, Room 4209
 Lock Box 19
 Wilmington, DE 19801

Re: DIRECTV vs. Donald Hall
C.A. No. 04-962

Dear Judge Sleet:

Plaintiff DIRECTV, Inc. ("DIRECTV") hereby submits this letter brief, pursuant to the Court's request at the hearing held on February 25, 2005 concerning DIRECTV's October 25, 2004 Request for Entry of Default against Defendant Donald Hall ("Hall").

With regards to the amount of damages requested by DIRECTV, the vast majority of Courts to consider the amount of damages DIRECTV may recover on default pursuant to 18 U.S.C. § 2520 have granted DIRECTV's request for \$10,000 per violation. *See, e.g., DIRECTV v. Thomas Roberts*, Civil Action No. 03-610-A (E.D. Va. October 7, 2003) (Report and Recommendation granting DIRECTV \$10,000.00 on request for default attached as Exhibit A); *DIRECTV v. Alan Plotkin*, Civil Action No. 3:04CV658WN (S.D. Miss. February 25, 2005) (Default Judgment granting DIRECTV \$20,000 in default damages and \$850.00 in attorneys'

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The Honorable Gregory M. Sleet

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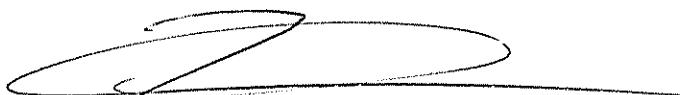
fees attached as Exhibit B); *DIRECTV v. Donald Chyba*, Case No. 04-73072 (E.D. Mich. Sept. 29, 2004) (Order Granting Plaintiff's Motion for Default Judgment granting DIRECTV \$10,000 in default damages and \$850 in attorneys' fees attached as Exhibit C); *DIRECTV v. Kevin H. Craig*, No. C03-5659 (W.D. Wa. February 15, 2005 attached as Exhibit D) (Order Granting Default Judgment Against Defendant Kevin H. Craig granting DIRECTV \$30,000 in default damages and \$850 in attorneys' fees).

As set forth above, the majority of Courts to have considered the issue have awarded DIRECTV \$10,000 per violation in statutory damages. However, a small minority of jurisdictions have refused to award DIRECTV any default damages at all. *See e.g. DIRECTV v. Van La*, Civ. No. 03-5630 (D. Minn. May 19, 2004) (Memorandum Opinion and Order finding defendant in default but refusing to award any damages attached as Exhibit E). In cases such as *Van La*, the Court accepted as true DIRECTV's allegations that Van La purchased and used Pirate Access Devices to steal DIRECTV programming, but refused to award damages because there was no "evidence" of, *inter alia*, whether Defendant's "interception resulted in actual damages to DIRECTV." With all due respect to the *Van La* court, it is axiomatic that DIRECTV suffers "actual damage" when someone steals its programming. DIRECTV further submits that to require an evidentiary showing of actual damages would thwart Congress' intent in creating statutory damages for violations of the statute.

DIRECTV also requests that it be awarded attorneys' fees. Attached as Exhibit F is Plaintiff's counsel's affidavit regarding attorneys' fees and portions of relevant time sheets. As these documents indicate, DIRECTV has incurred fees and costs in excess of the \$850.00 requested in the Complaint.

Accordingly, DIRECTV respectfully requests that this Court follow the lead of the vast majority of other District Courts, and award DIRECTV \$20,000 in statutory damages (\$10,000 per violation) pursuant to 18 U.S.C. §2520.

Respectfully,



Timothy E. Lengkeek

TEL:ksj

cc: Clerk of Court
Peter Stutheit, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2005, I electronically filed a true and correct copy of Letter Brief with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading. I further certify that on March 7, 2005, I served Letter Brief on the following non-registered participants in the manner indicated below

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